

PLR 200638016, 2006 WL 2710828 (IRS PLR)

Internal Revenue Service (I.R.S.)

Private Letter Ruling

Issue: September 22, 2006  
June 14, 2006

Section 7871 -- Indian Tribal Governments Treated As States For Certain Purposes  
7871.00-00 Indian Tribal Governments Treated As States For Certain Purposes

CC: TEGE:EOEG:TEB  
PLR-118291-06

LEGEND:

Tribe =  
Town =  
Tribal Council =  
Commission =  
Date 1 =

Dear

This letter is in response to your request for a ruling, submitted by your authorized representative on behalf of Town, that (1) Town is a political subdivision of Tribe within the meaning of [§ 7871\(d\) of the Internal Revenue Code](#) (the "Code").

**Facts and Representations**

Tribe is listed in [Rev. Proc. 2002-64, 2002-2 C.B. 717](#), as an Indian tribal government that is to be treated similarly to a state for specified purposes under the Code. Town is not included in the list of political subdivisions of Indian tribal governments published in [Rev. Proc. 84-36, 1984-1 C.B. 510](#), modified, [Rev. Proc. 86-17, 1986-1 C.B. 550](#). Tribal Council is the representative governing body of Tribe. Members of Tribal Council are elected by vote of all voters registered on Tribe's roll of registered voters. Tribe has authorized Tribal Council to act on behalf of Tribe to exercise a variety of powers, including the authority to establish and regulate political subdivisions of Tribe. Town was established by resolution of Tribal Council on Date 1 as a home-rule municipality and political subdivision of Tribe. As a home-rule municipality, Town is authorized to perform all functions and exercise any power necessary for local self-governance, consistent with all generally applicable laws and regulations of the federal government and Tribe. Tribal Council placed Town under the governance of Commission, an elected governing body, and delegated to Town all powers necessary for local self-government, including the authority to impose and collect a sales tax. Commission consists of five commissioners (the "Commissioners"), each of whom is elected to a term of four years. The Commissioners are elected by vote of all voters registered to vote in Tribe elections in Town's election precinct and who reside within Town's boundaries.

## Law and Analysis

Section 7701(a)(40)(A) defines the term "Indian tribal government" as the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise governmental functions.

[Section 7871\(a\)](#) treats an Indian tribal government as a state for certain specified tax purposes. [Section 7871\(d\)](#) provides that for purposes of [§ 7871\(a\)](#), a subdivision of an Indian tribal government shall be treated as a political subdivision of a state if (and only if) the Secretary of the Treasury determines (after consultation with the Secretary of the Interior) that such subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government.

[Rev. Proc. 84-36](#) provides a list of political subdivisions of Indian tribal governments that are to be treated as political subdivisions of a state for specified purposes of the Code. [Rev. Proc. 84-37, 1984-1 C.B. 513](#), modified, [Rev. Proc. 86-17](#), provides procedures for a governmental unit of an Indian tribal government not included on the list published in [Rev. Proc. 84-36](#), to request a ruling qualifying it for treatment as a political subdivision of a state as provided under [§ 7871](#).

Section 2.03 of [Rev. Proc. 84-37](#) provides that a subdivision of an Indian tribal government that has been delegated one of the generally accepted sovereign powers may qualify as a political subdivision of a state as provided under [§ 7871\(d\)](#). Section 2.03 indicates that the generally accepted sovereign powers of states are the power to tax, the power of eminent domain, and the police power.

Tribe is an Indian tribal government that is to be treated as a state for specified purposes under the Code. Tribe established Town as a political subdivision of Tribe, and Town is authorized to exercise taxing powers. The portion of Tribe's taxing power delegated to Town is not insubstantial.

This office has consulted with the United States Department of the Interior regarding Tribe and Town. The United States Department of the Interior has opined that Tribe has effectively delegated to Town the power to tax. Accordingly, after consultation with the Secretary of the Interior, we conclude that, within the meaning of [§ 7871\(d\)](#), Town has been delegated one or more of the substantial governmental functions of Tribe.

Therefore, for purposes of [§ 7871](#), Town will be treated as a political subdivision of a state.

## Conclusion

Based on the information submitted and representations made, we conclude that pursuant to [§ 7871\(d\)](#), Town is a political subdivision of an Indian tribal government (Tribe), and accordingly Town will be treated as a political subdivision of a state for purposes of [§ 7871](#).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any transaction or item discussed or referenced in this letter. This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with a Power of Attorney on file with this office, a copy of this letter is being sent to Town's authorized representatives.

The ruling contained in this letter is based upon information and representations submitted by Town and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the materials submitted in support of the request for a ruling, it is subject to verification upon examination.

Sincerely,

Assistant Chief Counsel (Exempt Organizations/Employment Taxes/Government Entities)

By:

Vassiliki Tsilas  
Assistant Branch Chief Tax Exempt Bond Branch

This document may not be used or cited as precedent. [Section 6110\(j\)\(3\) of the Internal Revenue Code](#).

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